

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

TRANSMITTAL LETTER (GENERAL)  
(With Certificate of Mailing by First Class Mail)

Applicant/Registrant: **ND Industries, Inc.**  
Serial No.: **77/035,999 - Filed: November 3, 2006**  
Registration No.:  
Trademark: **SURE TEMP**

Docket No.  
**1403.20083**

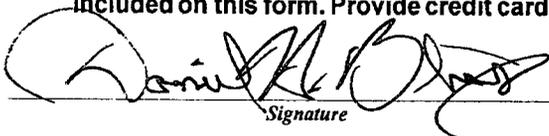
TO THE COMMISSIONER FOR TRADEMARKS:

Transmitted herewith is the following:

**Response, Declaration Under 37 C.F.R. 2.20, and return postcard.**

- No fee is required.
- Please charge Deposit Account No. \_\_\_\_\_ in the amount of \_\_\_\_\_
- A check in the amount of \_\_\_\_\_ is attached.  
Any excess or insufficiency should be credited or debited to Deposit Account No. \_\_\_\_\_
- Payment by credit card. Form PTO-2038 is attached.

**WARNING: Information on this may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

  
\_\_\_\_\_  
*Signature*

Dated: **June 2, 2008**

**Daniel H. Bliss (Reg. No. 32,398)**  
**Bliss McGlynn, P.C.**  
**2075 West Big Beaver Road, Suite 600**  
**Troy, Michigan 48084**  
**(248) 649-6090**

  
**06-04-2008**

U.S. Patent & TMO/TH Mail Rpt. Dt. #72

cc:

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451" [37 CFR 1.8(a)] on <u>June 2, 2008</u> (Date)  _____ <i>Signature of Person Mailing Correspondence</i> <b>Daniel H. Bliss</b> _____ <i>Typed or Printed Name of Person Mailing Correspondence</i>
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Examining Attorney: Steven Fine )  
Law Office: 110 )  
Applicant(s): ND Industries, Inc. )  
Serial No.: 77/035,999 )  
Filed: November 3, 2006 )  
Mark: SURE TEMP )

**RESPONSE**

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

Sir:

This is in response to the Office Action dated December 2, 2007, regarding the above-identified application.

CERTIFICATE OF MAILING: (37 C.F.R. 1.8) I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service with sufficient postage as First Class mail in an envelope addressed to: Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451 on JUNE 2, 2008, by Daniel H. Bliss  
Daniel H. Bliss

**REMARKS**

The Examining Attorney has found that the specimens are not acceptable for International Class 6 because they consist of either advertising material or invoice. The Examining Attorney has required that Applicant submit a substitute specimen showing the mark as it is used in commerce for the goods/services specified in the application and a statement that the substitute specimen was in use in commerce at least as early as the filing date of the application, verified with a notarized affidavit or a signed declaration under 37 C.F.R. § 2.20.

However, Applicant is amending the application from a Section 1(a) filing basis (use in commerce) to Section 1(b) (intent to use basis) for which no specimen is required for International Class 6 only. Accordingly, attached is a signed declaration under 37 C.F.R. § 2.20 verifying that the Applicant has had a bona fide intention to use the mark in commerce on or in connection with the goods listed in the application as of the filing date of the application for International Class 6. It is respectfully submitted that the application is acceptable.

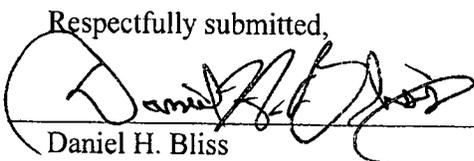
As to International Class 40, this class is based on actual use for the services and not an intent to use as stated by the Examining Attorney in the present Office Action. In the previous Response filed by Applicant, Applicant did not amend the filing basis for Class 40 services, but argued that the original specimen of record clearly states and specifically refers to the mark, SURE TEMP, being factory pre-applied to the fasteners. As such, Applicant is advertising the services of applying self-locking coatings to metal threaded fasteners because it is Applicant who pre-applies the self-locking coating to the fasteners at its factory for customers. This type of specimen has been accepted in corresponding applications of Applicant. Therefore, it is respectfully submitted that the specimen for International Class 40 is acceptable.

The Examining Attorney has searched the Office records and has found no similar registered or pending mark which would bar registration under Trademark Act Section 2(d).

In view of the above, the present application is believed to be in a condition to be passed to publication and favorable action toward this end is courteously requested.

Respectfully submitted,

By:

A handwritten signature in black ink, appearing to read "Daniel H. Bliss", is written over a horizontal line.

Daniel H. Bliss

Registration No.: 32,398

BLISS McGLYNN, P.C.  
2075 West Big Beaver Road, Suite 600  
Troy, Michigan 48084-3443  
(248) 649-6090

Dated: June 2, 2008

Attorney Docket No.: 1403.20083

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Examining Attorney: Steven Fine )  
Law Office: 110 )  
Applicant(s): ND Industries, Inc. )  
Serial No.: 77/035,999 )  
Filed: November 3, 2006 )  
Mark: SURE TEMP )

**DECLARATION  
UNDER 37 C.F.R. 2.20**

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

Sir:

The above-identified Applicant has had a bona fide intention to use the mark shown in the drawing as originally filed for the following goods/services:

INTERNATIONAL CLASS 006

—SELF-LOCKING METAL THREADED FASTENERS—

**CERTIFICATE OF MAILING:** (37 C.F.R. 1.8) I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service with sufficient postage as First Class mail in an envelope addressed to: Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451 on June 2, 2008, by Daniel H. Bliss  
Daniel H. Bliss

Applicant has had a bona fide intention to use the mark in commerce on or in connection with the goods listed above in the application as of the filing date of the application.

Kristina Berger, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares: That she is the Junior Vice President of Corporate Operations and Sales of ND Industries, Inc. and that she is authorized to execute this application on its behalf; that she believes the above-identified Applicant to be the owner of the mark sought to be registered; that no other entity, to the best of her knowledge and belief, has the right to use such mark in commerce, either in identical form or in such near resemblance as to be likely, when applied to the goods/services of such other entity, to cause confusion, or to cause mistake or to deceive; and that the facts set forth in the application are true.

ND INDUSTRIES, INC.

Date: 5/31/08

By:   
Kristina Berger

Title: Jr. V.P. of Corporate Operations and Sales

Attorney Docket No.: 1403.20083